

**SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS**

POST ENVIRONMENTAL ASSESSMENT

**ENVIRONMENTAL RECOMMENDATIONS IN
STB DOCKET NO. AB- 600 (Sub-No. 1X)
YAKIMA INTERURBAN LINES ASSOCIATION
ABANDONMENT EXEMPTION – IN YAKIMA COUNTY, WA**

May 29, 2007

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

SEA served an Environmental Assessment (EA) in this proceeding on January 24, 2006 for public review and comment. In the EA, SEA recommended seven environmental conditions and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

SEA received comments from the Washington State Department of Archaeology and Historic Preservation (State Historic Preservation Office or SHPO) after the comment period ended.

Based on the information available, SEA has determined that the proposed rail abandonment would not adversely affect historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) located within the area of potential effect (APE)¹ for this undertaking. Therefore, SEA finds that there are **No Historic Properties Adversely Affected** for this undertaking in accordance with 36 CFR 800.5(b).

Background

In December 2005, Yakima County Interurban Lines Association (YILA) filed a notice of exemption with the Board seeking its approval for authority to abandon 11.29 miles of rail line in Yakima County, Washington. In its notice, YILA indicated that following abandonment, it would negotiate the transfer of the line to Yakima County for a multi-use transportation corridor, including a request for issuance of a notice of interim trail use (NITU) in accordance with the National Trails System Act, 16 U.S.C. 1247(d). The Board's consideration of the abandonment

¹ The APE consists of the rail line right-of-way.

is subject to Section 106 of the National Historic Preservation (NHPA) (16 U.S.C. 470f).

On January 24, 2006, SEA issued an Environmental Assessment (EA) analyzing the potential environmental effects of the proposed rail line abandonment. In the EA, SEA recommended a condition requiring YILA to retain its interest in and take no further steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process. SEA based this condition on comments it received from the SHPO requesting YILA to: inventory historic properties; determine eligibility of the resources on the line; and provide a statement of effect for the proposed abandonment.

In order to satisfy the condition imposed by the Board and complete the Section 106 process, Yakima County retained Archaeological and Historical Services (AHS) of Eastern Washington University to provide the following services: (1) Conduct a site files search to determine if any railroad or bridge features of the YILA Naches Branch Rail Line have been previously recorded; (2) Conduct field evaluations and photograph bridge features of the YILA Naches Branch, including the Naches River Bridge 4.1 and other smaller bridges; (3) Complete Washington State Historic Property Inventory Forms for bridge features, including recommendations on National Register of Historic Places (NRHP) eligibility; and (4) Provide a professional letter report of findings and recommendations for future management.


In February 2006, AHS completed the report, entitled Naches River Corridor Railbanking Project: Abandonment Phase AHS Letter Report 2006-08, and provided a copy to SEA in January 2007. The report noted that the overall condition of the rail line was poor, but that most of the track and roadbed were intact. Six historic-period bridges were noted within the area of the proposed abandonment; however, only Naches River Bridge 4.1 was deemed eligible for listing on the NRHP. The report included inventories of three other eligible and previously recorded structures (the Wapatox Canal and Wasteway, the Naches Flume, and the Naches Depot) that were either on or bisected the rail corridor, but were not part of the abandonment. The report concluded that, should YILA opt to transfer ownership of the line to Yakima County for trail conversion as planned, and not salvage the line, then the proposed undertaking would have no adverse effect on the components of the rail line, including the eligible Naches River Bridge 4.1 and the three other eligible resources outside the right-of-way. On February 8, 2007, AHS submitted a supplemental letter confirming that the three eligible and previously recorded structures outside the railroad right-of-way would not be affected by the proposed undertaking.

In a status report filed on March 21, 2007, Yakima County, the City of Yakima, the Town of Naches, and YILA (County, et al.) notified the Board that, on March 19, 2007, YILA and the County reached an agreement for interim trail use and the acquisition of the Naches Branch Line from YILA. Nonetheless, YILA and the County requested that the Board extend the negotiating period for an additional 180 days to provide time for the parties to work out the contingencies in the trail use agreement and to satisfy the Section 106 condition. On May 7, 2007, the Board approved YILA's and the County's request to extend the trail use negotiating period from March 31, 2007 to September 27, 2007 to ensure, among other things, the completion of the Section 106 consultation process (see attached letter dated May 7, 2007 from Charles Montange).

SEA has since received a letter (attached) from the SHPO, dated March 2, 2007, expressing support of Yakima County's goals to preserve the rail corridor, reinstate rail service, and enter into a trail use agreement for the purpose of establishing pathways within the rail corridor. The SHPO has determined that the current project, as proposed, would have no adverse effect on National Register eligible or listed historic and cultural resources as a result of the

undertaking.

Based on the above findings, SEA finds that the following Section 106 condition imposed by the Board in this proceeding has been satisfied. Therefore, SEA recommends its removal.

SEA Contact: Diana Wood 
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Distribution: Ann Newman, Office of Proceedings
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ECT

Attachments

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Received 5/9/07
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7 May 2007

Victoria Rutson
Diane Wood
Section of Environmental Analysis
Surface Transportation Board
Room 1106
395 E Street SW
Washington, D.C. 20423

Re: YILA -- Abandonment Exemption,
AB 600 (Sub-no. 1X)

Dear Ms. Rutson and Ms. Wood:

As the Board's decision today extending the NITU negotiation period in the above docket noted, the section 106 condition in this proceeding concerning the Naches Branch remains outstanding. As I read the condition, it bars any alienation involving certain structures, and thus prevents Yakima Interurban Lines Association (YILA) from completing a closing with Yakima County under which the County would acquire the line for preservation under 16 U.S.C. § 1247(d).

One of the County's outside attorneys (Mr. Beyer) has sent a letter (copy attached) to all creditors (other than Washington State Department of Transportation) which notes that the County has agreed to purchase the Naches Branch for \$239,000 (the most recent appraised value of the line), provided that the creditors release their liens or claims, which the County calculates total some \$242,833. The County believes this settlement based on appraised value should be a very attractive offer, and has requested the lienholders to deliver satisfactions and sign closing instructions basically by May 22, 2007 (see p. 5 of 5 of letter).

If the lienholders are agreeable, they will likely wish to be paid promptly. In order to accomplish this, we will need the section 106 condition lifted.

The Washington state historic preservation office (Department of Archaeology and Historic Preservation, per Russell Holter), sent a letter dated March 2, 2007, to Ms. Wood which states concurrence in a no adverse effect determination. A copy is attached for your convenience. Copies were also filed

in the AB 600 (Sub-no. 1X) docket in a March 15 pleading opposing a reopening sought by Kershaw Sunnyside Farms. It is my understanding that this concludes the section 106 process, and County and YILA accordingly have requested that the section 106 condition be removed. I am concerned that the Board did not take the opportunity of today's decision to lift the section 106 condition.

Please advise me immediately if any further action on our part is necessary in order to obtain removal of the section 106 condition. If nothing more is required, I would appreciate it if you could indicate, if that has not been done so already, to the Office of Proceedings that they may now prepare an order for the Board to remove the condition. The County and YILA wish to be in a position to close their purchase and sale (railbanking) agreement as soon after May 22 as possible.

Thank you for your assistance, and please call if there are any questions.

Very truly,



Charles H. Montange
for YILA and Yakima County

Encls. Letter, Mr. Beyer to YILA Creditors, May 7, 2007
Letter, Mr. Holter to Ms. Wood, March 2, 2007

cc. Terry Austin, Esq. (County)
Scott Beyer, Esq. (for County)
Paul Edmondson, Esq. (YILA)
(w/encls.)

MENKE JACKSON BEYER ELOFSON EHLIS & HARPER, LLP

Attorneys at Law

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ANTHONY F. MENKE
ROCKY L. JACKSON
G. SCOTT BEYER

DAVID A. ELOFSON
KIRK A. EHLIS
KENNETH W. HARPER

Via Certified Return Receipt

May 7, 2007

Central Pre-Mix Concrete Co, Inc.
c/o Russell H. Gilbert, Attorney
Lyon Weigand & Gustafson
P.O. Box 1689
Yakima, WA 98907

Imperial Business Credit, Inc.
c/o Thomas Wolf, Attorney
4550 SW Kruse Way, Ste 125
Lake Oswego, OR 97035-3533

Dept. of Labor and Industries
Attn: Carl Vickers
15 W. Yakima Ave, Ste 100
Yakima, WA 98902-3480

State of Washington
Dept. of Revenue
Attn: Tina Nash
1714 S. 16th Ave
Yakima, WA 98902

United Rentals
c/o Darrell Champion, Attorney
1420 Coldwell Ave.
Modesto, CA 95352

Smith Tractor & Equipment Co., Inc.
c/o Larry Prentice
Ernst & Young
Pacific Centre, 16th Flr, Ste 7
700 W. Georgia St.
Vancouver, BC – V7Y 1C7
Canada

Yakima National Bank
Attn: Steven Downey
Chief Loan Officer
601 W. Walnut
Yakima, WA 98902

State of Washington
Attorney General
P.O. Box 40100
Olympia, WA 98504-0100

State of Washington
Employment Security Dept.
Attn: Mark Purves
P.O. Box 10708
Yakima, WA 98909

Re: Yakima Interurban Lines Association, dba Yakima Electric Railway

Dear Interested Parties:

I represent Yakima County. Yakima County and Yakima Interurban Lines Association, dba Yakima Electric Railway ("YILA"), have entered into a Purchase and Sale Agreement for Yakima County to purchase YILA's interest in what is known as the "Naches Branch." I am enclosing a copy of this Purchase and Sale

Agreement which is dated March 6, 2007, along with a copy of an Addendum dated May 1, 2007, changing the escrow for closing.

The Naches Branch is described in this Agreement. Yakima County's purchase of YILA's interest is subject to several contingencies. Of particular interest to you is the following:

Satisfaction of all liens, judgments and warrants against YILA and the Naches Branch, as shown by a Plant Information Guarantee. Yakima County is hereby authorized to contact and negotiate with such lien holders for satisfaction of such liens, judgments and warrants, but by doing so is acting solely in the interests of Yakima County and assumes no liability for payment of such obligations. Any agreement to satisfy such obligations shall be subject to the approval of YILA.

A title search discloses that you are a listed lien or judgment holder regarding YILA's interest in the Naches Branch. Based upon a review of judgments and abstracts of judgments, the respective listed lien or judgment amounts are as follows:

<u>Lien Holder</u>	<u>Amount</u>
Central Pre-Mix Concrete Co., Inc.	\$ 26,775
Smith Tractor & Equipment Co., Inc.	6,647
Yakima National Bank	115,172
State of WA, Dept. of Revenue (Warrant #014804A)	17,347
State of WA, Dept. of Revenue (Warrant #018210A)	1,582
State of WA, Dept. of Labor and Industries (Warrant #0151214)	7,862
State of WA, Dept of Labor and Industries (Collections - Warrant # 0152836)	1,353
Imperial Business Credit, Inc.	46,660
State of WA, Employment Security Dept. (Warrant # 02-2-00215-2, includes claims under Auditor's #'s 7200187 and 7182940)	13,980
United Rentals	<u>5,455</u>
TOTAL	\$242,833

The above amounts are the figures we have gleaned from our review of the Plant Information Guarantee issued by Valley Title Guarantee. By listing these amounts, we are expressing no opinion on the validity or legal efficacy of any listed lien or judgment. I am also including with this letter a copy of that Guarantee. Due to the

nature of YILA's interest in the Naches Branch, the title company will not issue a title report or commitment other than a Plant Information Guarantee.

Although you are listed as a lien or judgment holder, Yakima County as a potential purchaser of this property is uncertain of the nature and extent of your interest or lien rights in the Naches Branch. Rather than engaging in a declaratory judgment or quiet title action to gain definitive answers to these questions, Yakima County has decided to enter into this Purchase and Sale Agreement and to proceed with satisfaction of the listed liens and judgments in closing, if possible. If the liens cannot be removed to its satisfaction, the County reserves the option to not proceed with this transaction.

Please understand that I represent only the interests of Yakima County in this matter and that I am making no representations or warranties concerning the accuracy of the amounts we have obtained from our review of the records and discussions with the creditors. In the case of the Yakima National Bank, the Department of Revenue, and Department of Labor and Industries, these amounts reflect partial satisfactions or payments. Based upon our review and discussions with the creditors, we do not believe the amounts reflect interest or costs accruals from the date of entry of the documents we reviewed. You will also note that the State of Washington, Department of Transportation, holding a listed lien and judgment for \$516,604, is not sharing in the proposed distribution described below. Yakima County has chosen to negotiate separately with the State of Washington, Department of Transportation.

For the purpose of gaining satisfaction of the listed liens and judgments, the purchase price paid into escrow, less real and personal property taxes constituting liens against the Naches Branch, would be paid on a pro-rata basis to the listed lien holders based upon the figures shown above. No real and personal property taxes constituting liens against the Naches Branch have been identified. The purchase price to be paid into escrow is \$239,000.00. The majority of these funds are being provided to Yakima County through a Federal Transportation Enhancement grant administered by the State of Washington, Department of Transportation. Based upon this amount, the pro-rata shares that would be payable to each of you are as follows:

<u>Holder</u>	<u>Amount</u>
Central Pre-Mix Concrete Co., Inc.	\$ 26,352.40
Smith Tractor & Equipment Co., Inc.	6,542.10
Yakima National Bank	113,354.10
State of WA, Dept. of Revenue (Warrant #014804A)	17,073.20
State of WA, Dept. of Revenue (Warrant #018210A)	1,557.00

State of WA, Dept. of Labor and Industries (Warrant #0151214)	7,737.90
State of WA, Dept of Labor and Industries (Collections – Warrant # 0152836)	1,331.60
Imperial Business Credit, Inc.	45,923.50
State of WA, Employment Security Dept. (Warrant # 02-2-00215-2, includes claims under Auditor's #'s 7200187 and 7182940)	13,759.30
United Rentals	<u>5,368.90</u>
TOTAL	\$239,000.00

Payment of these amounts is subject to closing of this transaction. Please note from the Purchase and Sale Agreement that the purchaser is paying the closing costs, including escrow fees, real estate excise tax and sales tax, if any, costs of title reports and recording fees.

We are also enclosing a copy of the first page of a Certificate of Appraiser indicating a fair market value as of December 12, 2006, of \$239,000. We have only included page one of this Certificate of Appraiser. Anyone wishing to have a complete copy of the Certificate of Appraiser as well as a copy of the reviewer's Certificate from the Washington State Department of Transportation, may request a copy by sending their email address to the undersigned. An electronic copy of these documents will then be provided by email.

In the Purchase and Sale Agreement you will also notice that this transaction requires authorization of grant funds in the amount of \$192,000.00 as well as continued effectiveness of orders before the Surface Transportation Board (STB). The ability of Yakima County to acquire the Naches Branch from YILA is subject to no new limitations being posed by STB which would prevent this sale and transfer. It is our understanding that any party wishing to acquire the Naches Branch is required to proceed before the STB.

Yakima County is not willing to proceed with the payment of the purchase price into escrow and to close, unless the listed liens and judgments can be removed to its satisfaction. Yakima County reserves the option not to require that all such liens be satisfied. However, if one or more of the creditors listed above do not accept the amounts shown in full satisfaction of their listed liens and judgments, it may jeopardize the closing of this transaction and may result in Yakima County terminating the Purchase and Sale Agreement.

In order to facilitate the satisfaction of the listed liens and judgments and closing, I am enclosing escrow instructions for each of you to execute and deliver to Pacific

Judgment and Lien Creditors
May 7, 2007
Page 5 of 5

Alliance Title, LLC, along with Satisfaction(s) of Judgment/Warrant/Claim of Lien. In the case of foreign judgments or judgments entered in other counties originally, we will require that both the judgment as filed of record in Yakima County and as filed in the original County be satisfied. In the case of the judgments of United Rentals and Imperial Business Credit, Inc., we will require that their legal counsel prepare Satisfaction(s) of Judgment required by California law to satisfy the foreign judgments of record. We will also require satisfactions from the public lien holders, that is the Department of Labor and Industries, the Department of Revenue and the Employment Security Department, and request that they prepare such satisfactions, if they wish to participate in this satisfaction of listed liens. Please note that the escrow instructions provide that Pacific Alliance Title, LLC, is authorized to deliver the Satisfaction(s) of Judgment/Warrants/Claims of Lien to me for recording and filing only when it holds collected funds for your account in the amount shown in the instructions.

Although a closing date of this transaction is set for on or before September 4, 2007, Yakima County intends to make a decision whether to proceed with this transaction on May 22, 2007, based upon whether all or substantially all of the creditors listed above have deposited the appropriate Satisfactions of Judgment/Warrants/Claims of Lien with Pacific Alliance Title, LLC.

If you have any questions regarding this transaction or the proposal, please let me know. Also, assuming that you return the signed escrow instructions and Satisfaction(s) of Judgment/Warrants/Claims of Lien to Pacific Alliance Title, LLC, please forward a copy to me of all documents for my information.

Sincerely,

G. SCOTT BEYER

Enclosures

GSB: sgk

cc: Yakima County, Attn: Phil Hoge
Yakima Interurban Lines Association
Pacific Alliance Title, LLC



Public Services (B)

MAR 05 2007

Vern ___ Gary O Don ___ Steve ___
Bill ___ Dave ___ Lisa ___ Carmen ___

STATE OF WASHINGTON

DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

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March 2, 2007

Ms. Diana Wood
Surface Transportation Board
1925 K Street NW
Washington, DC 20423

Terry Austin C
#E1-2948

In future correspondence please refer to:

Log: 121505-01-STB

Property: Abandonment of YILA lines to Naches (AB-600 Sub-No. 1X)

Re: NO Adverse Effect

Dear Ms. Wood:

Recently the Washington State Department of Archaeology and Historic Preservation (DAHP) was contacted concerning the above referenced project, which has been reviewed on behalf of the State Historic Preservation Officer under provisions of Section 106 of the National Historic Preservation Act of 1966 (as amended) and 36 CFR Part 800. My review is based upon documentation contained in a letter from Yakima County Public Services office dated February 26, 2007.

Yakima County asked their cultural resource consultant AHS of Eastern Washington University to provide supplemental information regarding Naches Rail Corridor Railbanking. The supplemental information addressed cultural resources found eligible for listing to the National Register of Historic Places that are on, or bisect, the Yakima Interurban Lines (YILA) rail corridor. The supplemental report addressed four previously recorded and determined eligible resources within the project area of potential effect. These are as follows:

- Naches Depot (under separate ownership)
- Wapatox Canal and wasteway (under separate ownership)
- Naches Flume (under separate ownership)
- And YILA Bridge 4.1

The supplemental report addresses five previously undocumented structures which were deemed insignificant except for the fact that they over-cross National Register eligible linear features. These are as follows:

- YILA Bridge 3 over Cowiche Ditch
- YILA Bridge 4 over Cowiche Creek
- YILA Bridge 10 over Wapatox wasteway
- YILA Bridge 10.1 over Wapatox canal
- YILA Bridge 13 over Naches flume

Furthermore, it was stated in the conclusions and recommendations of the supplemental report that any proposed activities by Yakima County shall be reviewed by DAHP to determine whether those activities

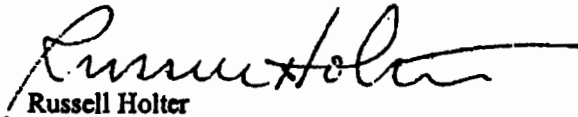
Ms. Wood
March 2, 2007
Page 2

constitute an Adverse Effect to any of the four properties eligible for listing to the National Register of Historic Places. This stipulation has been accepted by Yakima County. In a letter to DAHP dated, February 26, 2007, Yakima County stated their goal was to preserve the corridor, reinstate rail service, and develop pathways along the corridor. It was also stated that Yakima County, "Will include appropriate consultation with DAHP prior to commencing such action." Therefore, I concur with the findings of AHS that the previously undocumented structures are NOT eligible for listing to the National Register of Historic Places. I further concur that the current project, as proposed, will have No Adverse Effect on National Register eligible or listed historic and cultural resources as a result of the undertaking.

If additional information on the project becomes available, or if any archaeological resources are uncovered during construction, please halt work in the area of discovery and contact the appropriate Native American Tribes and DAHP for further consultation.

Thank you for the opportunity to review and comment. If you have any questions, please contact me.

Sincerely,



Russell Holter
Project Compliance Reviewer
(360) 586-3533
Russell.Holter@dahp.wa.gov

Cc: Alan Adolf (Yakima Co.)



DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

Protect the Past, Shape the Future